

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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API Technologies, Inc.,	)	Civil No. _____
	)	
Plaintiff,	)	
	)	
vs.	)	<b>NOTICE OF MOTION AND MOTION</b>
	)	<b>BY DIGITAL RIVER'S TO QUASH A</b>
Facebook, Inc., et al.,	)	<b>THIRD PARTY SUBPOENA AND FOR</b>
	)	<b>A PROTECTIVE ORDER</b>
Defendants.	)	
	)	<u>[U.S. District Court in the Eastern District of</u>
	)	<u>Texas, Case no.: 2:09-cv-00147]</u>
	)	Filed and served concurrently with:
	)	1. Notice of Motion and Motion
	)	2. Memorandum of Points & Authorities
	)	3. Declaration of Sean Walbran

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE Pursuant to Fed. R. Civ. P. 26(c) and 45(c), non-party Digital River, Inc. and its affiliates ("Digital River") respectfully seeks: (1) an order quashing the subpoena duces tecum and deposition subpoenas (collectively, the "Subpoena") served on Digital River by Google, Inc. ("Google") and (2). a protective order from this Court prohibiting Google, from requiring production of documents from Digital River or deposition of a Digital River representative in the related matter.

This Motion is based upon this Notice, the accompanying Memorandum of Points and Authorities, all pleadings and papers filed in this action, and upon such other matters as may be presented to the Court at the time of hearing.

Dated: April 16, 2010

Respectfully submitted,

/s/ **Frank S. Farrell Jr.**

F.S. FARRELL, LLC

Frank S. Farrell Jr. Minnesota Att. No. 0028447

Alexander Farrell, Minnesota Att. No. 390202

7101 York Avenue South, Suite 153

Edina, MN 55435

952-921-3261

952-216-0106 FAX

frank@fsfarrell.com

[alexander@fsfarrell.com](mailto:alexander@fsfarrell.com)

Attorneys for Non-party Digital River, Inc.

**CERTIFICATE OF E-FILE SERVICE AND WORD COUNT**

I hereby certify that on April 16, 2010, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

V. Ajay Singh  
Perkins Coie LLP  
1201 Third Ave  
Suite 4800  
Seattle, WA 98101  
asingh@perkinscoie.com

There are no other parties/attorneys to be served that are not ECF users.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and executed on April 16, 2010, in the City of Edina, State of Minnesota.

In addition, I certify that the accompanying memorandum of law does not exceed 12,000 words.

/s/ *Alexander Farrell*

Alexander Farrell